

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID CERVANTES, ET AL.,

Defendants.

No. 21-cr-328-YGR

**ORDER CONFIRMING TRIAL DATES AND
SETTING PRETRIAL SCHEDULE AS TO
DEFENDANTS STEVEN TRUJILLO, ALEX
YRIGOLLEN, EDGARDO RODRIGUEZ, AND
ROCKY BRACAMONTE (2022 TRIAL GROUP)**

On June 8, 2022, the Court held a pretrial scheduling conference. Marja-Lisa Overbeck appeared on behalf of the government. Mike Hinckley appeared on behalf of Steven Trujillo, Charles Woodson appeared on behalf of Salvador Castro, Peter Arian appeared on behalf of Alex Yrigollen, Steven Kalar appeared on behalf of Edgardo Rodriguez, David Cohen and Alex Guilmartin appeared on behalf of Rocky Bracamonte, Randy Sue Pollock appeared on behalf of Guillermo Solorio, Michelle Spencer appeared on behalf Trinidad Martinez, and Carleen Arlidge appeared on behalf of Bryan Robledo. All defendants were present and in custody.

Having carefully considered the parties' positions and representations, the Court **HEREBY SETS** the following pretrial filing schedule and trial date **as to defendants Steven Trujillo, Alex Yrigollen, Edgardo Rodriguez, and Rocky Bracamonte only (the "2022 Trial Group")**. A separate trial date of April 17, 2023 has been tentatively set for defendants Bryan Robledo and Salvador Castro. That pretrial order will issue separately.

I. Pretrial Motions

Pretrial motions, e.g. motions to sever, to dismiss, for bill of particulars, etc., shall be filed *no later than* **JUNE 21, 2022**. Any oppositions shall be filed no later than noon on **JULY 6, 2022**, with any replies filed no later than noon on **JULY 13, 2022**. If filed under this schedule, the motions hearing is set for **JULY 27, 2022** at

9:00 a.m. In the event that motions are not filed, a conference will still be held on July 27, 2022 at 9:00 a.m. to ensure that the case is proceeding as planned.

II. Evidence Review

The parties shall meet and confer regarding a mutually agreeable proposed schedule for physical inspection of the evidence. Given that the parties advised that this process required coordination with third-party entities, the parties are **ORDERED** to complete their meet and confer as soon as possible. Any issues concerning the evidence review shall be promptly raised with the Court without delay.

III. Pretrial Deadlines and Disclosures

A. The Government shall make its expert disclosures by **JUNE 22, 2022**. Rebuttal expert disclosures shall be made by **JULY 6, 2022**. *Daubert* motions shall be filed after the disclosures, by **JULY 20, 2022**, oppositions due no later than **AUGUST 3, 2022**, and replies due no later than **AUGUST 10, 2022**. As stated on the record, the Court is likely to decide the *Daubert* motions on the papers.

- i. Parties shall comply with the Court's requirements for expert reports and *Daubert* motions contained in the Standing Order in Civil Cases. All Standing Orders are available on the Court's website at <http://www.cand.uscourts.gov/ygrorders>.

B. By **AUGUST 15, 2022**, the Government must fully comply with all requirements of Local Rule 16-1(c). These disclosures must be set forth in sufficient detail that the Court may rule on the admissibility of any statements or evidence proffered.

C. By **AUGUST 15, 2022**, the Government must provide to defense counsel all *Henthorn* and non-*Jenks Brady* material and information. While not discussed at the conference, the Court assumes that disclosures will comply with the protective order and take into account the safety of witnesses. To the extent there are any concerns with the information to be disclosed, those concerns shall be promptly

raised with the Court. All other *Brady* information must be produced in time for its effective use at trial.

IV. Trial Date and Preparations

A. Trial Date

Trial is set to begin on **SEPTEMBER 26, 2022**, at 8:00 a.m. As the Court advised, this case is proceeding on a condensed timeline. The Court is setting the September 26, 2022, to secure time and priority for this case. Additional coordination is required to determine whether September 26 will be used for jury selection or for openings and the start of evidence. An update will be provided once the requisite information is obtained. The trial schedule will be generally as follows: Monday through Thursday, from 8:00 a.m. to 1:40 p.m., with two twenty-minute breaks. The Court will meet with counsel and the parties beginning at 8:00 a.m. Trial evidence will begin promptly at 8:30 a.m. Closer to the trial date, the Court will identify which additional day(s) it anticipates to be dark. Additional time may be scheduled for matters outside the presence of the jury as necessary and determined by the Court. Side bars are not permitted. Counsel should be prepared to anticipate issues so that they may be addressed outside of normal trial hours.

B. Pretrial Conferences

1. A pretrial conference is hereby scheduled for **AUGUST 24, 2022**, at 9:00 a.m. to address any anticipated issues regarding trial preparation. As discussed, second pretrial conference will be set at a future date as trial preparation proceeds. Conferences shall occur at 9:00 a.m. in Courtroom 1 of the Federal Courthouse in Oakland, California.
2. No later than **AUGUST 3, 2022**, the parties shall serve, **but not file**, motions *in limine*.¹ No later than **AUGUST 10, 2022**, the parties shall serve any oppositions thereto. The parties shall then meet and confer to resolve the motions. Any motions not resolved shall be filed with the Court no later than

¹ A motion *in limine* refers “to any motion, whether made before or during trial, to exclude anticipated prejudicial evidence before the evidence is actually offered.” *Luce v. United States*, 469 U.S. 38, 40, n.2 (1984).

1 **AUGUST 12, 2022.** The parties shall submit a JOINT CHAMBERS set, which
2 collates each motion and the respective opposition. The proponent of the
3 motion shall also submit therewith a COMPREHENSIVE proposed form of
4 order, summarizing each motion and the requested relief. As discussed at the
5 conference, motions *in limine* shall comply with the Court's Standing Order in
6 Criminal Cases, which limits each side to five (5) motions absent leave of the
7 Court.

- 8 **3.** The parties shall comply with Local Rule 17.1-1(b) and the Court's Standing
9 Order in Criminal Cases. However, the parties shall file the pretrial conference
10 statement addressing all fifteen (15) issues identified therein (to the extent not
11 previously resolved and/or addressed) and all related filings no later than
12 **AUGUST 12, 2022.**

13 **C. Jury Selection and Jury Verdict Form**

14 Proposed jury questionnaires and the Government's proposed jury verdict form shall be
15 filed no later than **AUGUST 12, 2022.** For reasons stated at the conference, the Court will gather
16 additional information to coordinate jury selection and will communicate the same once known.
17 As advised, a new system has been implemented for jury questionnaires given COVID-19
18 protocols. With respect to the questionnaire, the parties are directed to attempt to agree on a
19 stipulated proposed jury questionnaire. In the event the parties cannot agree, they shall file one
20 proposed jury questionnaire, color-coded, to identify which submissions are joint and which
21 reflect the position of either the Government or the defendant(s).

22 **D. Exhibit and Witness Lists**

- 23 **1.** The Government must provide by **JULY 25, 2022**, a final trial exhibit list and a
24 final list of witnesses for its case-in-chief, including all civilian witnesses
25 except to the extent any prior court order has allowed postponement of such
26 disclosure.
27 **2.** No witness may be shown any document or other object until it has been
28 marked for identification using an exhibit number. The jury may not be shown

any exhibits until admitted into evidence or stipulated by the parties as to admissibility.

3. To the extent agreed upon, the parties shall file Exhibit Lists identifying those exhibits for which a stipulation of admissibility exists by noting an “S” in the appropriate box. When printing and providing these documents to the Court, please use the “portrait” orientation only. (Do not use “landscape” orientation.)

A sample format is provided below:

Ex. No.	Description	Sponsoring Witness	Stipulation to Admit	Objection	Date Admitted

4. Physical evidence must also be pre-marked. For purposes of an anticipated binder of exhibits for the Court, parties are advised that a picture of the exhibit should be taken and placed in the binder.

5. Parties are advised to review their exhibits critically and determine whether sub-designations are appropriate for both the record and rulings on any potential objections. For instance, if an exhibit consists of a series of pictures, rather than designate the exhibit collectively as Exhibit 1, each picture should have a designation, *i.e.* Exhibit 1-A, 1-B, 1-C, 1-D, 1-E and 1-F.

E. Witness Exclusion

The Court hereby orders that witnesses shall be excluded until testimony is completed. Parties are ordered to admonish witnesses of the Court’s rulings. Failure to comply with a ruling by the Court may result in sanctions, including without limitation, the striking of the witness’s entire testimony.

F. Waivers and Rocky Bracamonte’s Limiting Instruction

At the conference on June 8, 2022, counsel conducted voir dire regarding constitutional and statutory evidentiary challenges, as well as related appellate rights. Given the

waivers, defendant Rocky Bracamonte is on notice that he is further limited from arguing that the government had any illicit motive in placing him in this trial grouping. He exercised his speedy trial rights and argued that he should be placed in the earliest group as practical. This limiting instruction does not preclude Bracamonte from making argument and challenges based upon the evidence submitted. To the extent Bracamonte violates this limiting instruction at trial, the Court will take steps to address and remediate the violation after consulting with counsel.

G. Miscellaneous Logistics


1. No later than the last pretrial conference, counsel for each defendant shall provide the Court with a proposed form of order so that the defendant may dress in civilian clothes during the trial.
2. Computers, projectors, screens and similar equipment must be tested in the courtroom prior to the day when any such equipment will be used.
Arrangements may be made with the Courtroom Deputy, Aris Garcia, at (510) 637-3540 as to an appropriate time for doing so. Marshals require court order to allow equipment. Any party needing such an order must file a request and proposed order.
3. As noted at the conference, the Court will work with the Marshals to move defendants Steven Trujillo, Alex Yrigollen, and Edgardo Rodriguez closer to the Oakland courthouse prior to the commencement of trial.
4. For the convenience of the parties, the Court provides the following chart summarizing the above-mentioned deadlines:

EVENT	DEADLINE
PHYSICAL EVIDENCE REVIEW	Parties to meet and confer as soon as possible
PRETRIAL MOTIONS FILED	June 21, 2022
EXPERT DISCLOSURES	June 22, 2022
OPPOSITIONS TO PRETRIAL MOTIONS FILED	July 6, 2022 at noon

EVENT	DEADLINE
REBUTTAL EXPERT DISCLOSURES	July 6, 2022
REPLIES TO PRETRIAL MOTIONS FILED	July 13, 2022 at noon
<i>DAUBERT</i> MOTIONS FILED	July 20, 2022
PROPOSED JURY QUESTIONNAIRE FILED	July 22, 2022
GOVERNMENT'S WITNESS & EXHIBIT LIST SERVED	July 25, 2022
HEARING ON PRETRIAL MOTIONS & FURTHER STATUS CONFERENCE	July 27, 2022 at 9:00 a.m.
OPPOSITIONS TO <i>DAUBERT</i> MOTIONS FILED	August 3, 2022
MOTIONS IN <i>LIMINE</i>	Served August 3, 2022 Oppositions August 10, 2022 File unresolved motions by August 12, 2022
REPLIES TO <i>DAUBERT</i> MOTIONS	August 10, 2022
JOINT PROPOSED JURY INSTRUCTIONS	August 12, 2022
PROPOSED JURY VERDICT FORM	August 12, 2022
JOINT PRETRIAL CONFERENCE STATEMENT FILED	August 12, 2022
LOCAL RULE 16-1(C) DISCLOSURES DUE	August 15, 2022
<i>HENTHORN</i> & NON- <i>JENKS BRADY</i> DISCLOSURES DUE	August 15, 2022
FIRST PRETRIAL CONFERENCE	August 24, 2022 at 9:00 a.m.
FURTHER PRETRIAL CONFERENCE	To be set
JURY TRIAL	September 26, 2022 at 8:00 a.m.

IT IS SO ORDERED.

Dated: June 9, 2022


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE